

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KADIAN MCBEAN, et al.,

Plaintiffs,

v.

THE CITY OF NEW YORK, et al.,

Defendants.

JOEL RAMOS, et al.,

Intervenor-Plaintiffs,

v.

THE CITY OF NEW YORK, et al.,

Defendants.

HONORABLE JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE

02 Civ. 05426 (JGK)

~~Proposed~~ Order Approving
the 2007 Stipulation and Order

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WHEREAS, the Intervenor-Plaintiffs and Defendant City of New York entered into a Stipulation and Order, dated October 4, 2007 (hereinafter "2007 Stipulation"), which provided for injunctive relief and for the certification of an Injunction Class;

WHEREAS, the Injunction Class is defined in the 2007 Stipulation as:

All pretrial detainees arraigned solely on non-felony charges . . . who have been or will be admitted to DOC custody, but were/are not also simultaneously admitted on: (i) any felony charges; (ii) a parole violation; (iii) an outstanding warrant for a felony offense; (iv) a violation of felony probation or (v) a City sentence of less than one year and who are not already serving a State sentence at the time of their admission;

WHEREAS, the 2007 Stipulation complies with the requirements of the Prison Litigation Reform Act (PLRA), including the requirement that the injunction be narrowly drawn,

extend no further than necessary to correct the violation of the federal rights of the class, and be the least intrusive means necessary to correct that violation, 18 U.S.C. § 3626(a)(1)(A);

WHEREAS, the District Court preliminarily approved the 2007 Stipulation in an opinion and order, dated October 5, 2007;

WHEREAS, Forensic Investigative Services ("FIA") was appointed by the Court pursuant to the 2007 Stipulation to monitor DOC's performance under terms of the 2007 Stipulation;

WHEREAS, pursuant to the Report dated December 23, 2009, submitted to the Court by Forensic Investigative Associates, and the Declaration of Robert H. Silbering of FIA dated February 1, 2010, DOC has stopped its prior blanket policy of strip searching at admission *all* pretrial detainees arraigned on misdemeanor or lesser charges and that DOC revised its written policies and training procedures to ensure compliance with the 2007 Stipulation;

WHEREAS, the Injunction Class was provided with notice of the 2007 Stipulation in accordance with the distribution plan approved by this Court on December 11, 2009;

WHEREAS, no person has objected to the 2007 Stipulation;

WHEREAS, on February 1, 2010, counsel for the Intervenor-Plaintiffs Emery Celli Brinckerhoff & Abady LLP filed a notice of motion, memorandum of law, and declarations in support of the approval of the 2007 Stipulation and certification of the Injunction Class;

WHEREAS, a hearing to determine whether the 2007 Stipulation was fair, just, and reasonable was held on February 5, 2010;

WHEREAS, upon reading the papers submitted in support of the motion for approval of the 2007 Stipulation, the FIA Report dated December 23, 2009, and after hearing

argument, this Court made specific conclusions on the record at the hearing on February 5, 2010, including that (a) the 2007 Stipulation was fair, just, and reasonable; (b) notice was provided to the Injunction Class in compliance with Fed. R. Civ. P. 23, ^{and due process,} and (c) that the Injunction Class should be certified;

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NOW, it is HEREBY ORDERED that:

- (a) the 2007 Stipulation has final approval;
- (b) the Injunction Class provided for in the 2007 Stipulation is certified;
- (c) Emery Celli Brinckerhoff & Abady LLP is appointed as counsel for the Injunction Class.

Dated: New York, New York
February 12, 2010

SO ORDERED:


HONORABLE JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE